

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18906
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

On June 20, 2005, the Income Tax Audit Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NOD) to [Redacted](petitioners), proposing additional income tax and interest for the years 2002 and 2003 in the total amount of \$5,512.

On June 28, 2005, a timely protest and petition for redetermination was filed by the petitioners. An informal hearing was held by telephone with [Redacted] on September 23, 2005. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision modifying the NOD.

Mr. [Redacted] is a shareholder in [Redacted], an S corporation. In 2002, [Redacted] sold its business and operating equipment and continued to lease the real property to the purchasers. On the S corporation and individual income tax returns, Mr. [Redacted] claimed the Idaho capital gains deduction relating to tangible personal property. Upon questioning the deduction, Mr. [Redacted] maintained that the equipment was attached to the building and therefore real property qualifying for the deduction. The claim was dismissed and an adjustment was made disallowing the Idaho capital gain deduction after the auditor reviewed the sales agreement and the list of items sold. Mr. [Redacted] agreed with the disallowance of the Idaho capital gain deduction in 2002 and paid that portion of the deficiency with regard to [Redacted]. The petitioners have filed amended returns for 2002 reflecting the auditor's changes and paid the

interest due for that year. The tax year for 2002 will not be addressed any further in this decision.

Mr. [Redacted] is a CPA located in [Redacted], Idaho. He works for [Redacted] an S corporation, and he is the sole shareholder of the S corporation. [Redacted] is also a partner in [Redacted], an accounting firm located in [Redacted], Idaho.

The S corporations were audited for each of the years listed above. The auditor made adjustments to the petitioners' returns to reflect the audit adjustments made to the S corporation returns for each of the years. For 2003, there was also an adjustment to reflect the differences between the depreciation allowable for federal purposes and the depreciation allowable for Idaho purposes.

The Commission has reviewed the file and found that the computations appear to be correct. Therefore, the Commission must affirm the auditor's determination as modified.

WHEREFORE, the Notice of Deficiency Determination dated June 20, 2005, as MODIFIED, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following tax and interest (calculated to June 13, 2006):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$2,419	\$313	\$2,732

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.
